

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

-against-

PHILIP MORRIS, INC., et al.,

Defendants.

99 Civ No. 2496 (GK)
Next Court Appearance:
May 17, 2002

**RESPONSES AND OBJECTIONS OF BRITISH AMERICAN TOBACCO
(INVESTMENTS) LIMITED TO PLAINTIFF'S FIRST REQUESTS FOR
ADMISSION TO ALL DEFENDANTS, AMENDED PURSUANT TO ORDER #119**

Defendant British American Tobacco (Investments) Limited ("BATCo"),
hereby responds and objects to plaintiff's First Requests for Admissions to All
Defendants, Amended Pursuant to Order #119 ("Requests") as follows:

GENERAL OBJECTIONS

1. BATCo objects to each and every Request on the grounds set forth below. These objections form a part of the response to each and every Request and are set forth herein to avoid duplication and repetition by restating them for each Request. These General Objections may be specifically referred to for the purposes of clarity in

RESPONSE TO REQUEST FOR ADMISSION NO. 207:

BATCo incorporates General Objections Nos. 9, 10 and 20 in response to this Request. BATCo further objects to this Request on the grounds that the phrase "palladium cigarette" is vague, ambiguous and unintelligible. Subject to and without waiving its objections, and to the extent that the Request can be understood, BATCo denies this Request.

ENVIRONMENTAL TOBACCO SMOKE OR SECONDHAND SMOKE**REQUEST FOR ADMISSION NO. 218:**

Admit that environmental tobacco smoke ("ETS") causes disease in some people.

RESPONSE TO REQUEST FOR ADMISSION NO. 218:

BATCo incorporates General Objections Nos. 3, 8 and 15 in response to this Request. BATCo further objects to this request on the grounds that the terms "causes disease" and "some people" as they are used in this Request are vague, ambiguous and unintelligible. BATCo further objects to this Request on the grounds that it is vague, ambiguous and overbroad in that it seeks to reduce a complicated scientific subject to a simple affirmative or negative response.

BATCo further states that the claim that ETS exposure has been shown to be a cause of chronic disease is not supported by the science that has developed over the

past twenty years or so. It has not been established that ETS exposure genuinely increases the risk of non-smokers developing lung cancer, heart disease or chronic obstructive pulmonary disease. However, science cannot definitively prove that there is no risk associated with ETS. To the extent that the scientific studies to date are used to suggest that there is a risk of chronic disease in non-smoking adults from ETS exposure, it is too small to measure with any certainty. Except as expressly admitted, subject to and without waiving its objections, and to the extent that this Request can be understood, BATCo denies this Request.

REQUEST FOR ADMISSION NO. 219:

Admit that you have never admitted that ETS has caused disease in a particular person or a particular group of persons.

RESPONSE TO REQUEST FOR ADMISSION NO. 219:

BATCo incorporates General Objections Nos. 3, 15 and 20 in response to this Request. BATCo further objects to this Request on the grounds that the phrase "caused disease," as it is used in this Request is vague, ambiguous and unintelligible. BATCo further objects to this Request on the ground that its is argumentative. Subject to and without waiving its objections, BATCo incorporates by reference its response to Request No. 218, as if fully set forth herein.

REQUEST FOR ADMISSION NO. 229:

Admit that you funded CIAR Special Projects.

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FILE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
2002 MAR 21 P 4 17
U.S. DISTRICT COURT LITIGATION TEAM

UNITED STATES OF AMERICA,

x

Plaintiff,

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Civil Action No.
99-CV-02496 (GK)

:

-against-

:

Next Scheduled Court
Appearance: April 19, 2002

PHILIP MORRIS, INC., et al.,

:

Defendants.

x

**OBJECTIONS AND RESPONSES OF DEFENDANT BRITISH AMERICAN
TOBACCO (INVESTMENTS) LIMITED TO PLAINTIFF UNITED STATES'
SPECIFIC INTERROGATORIES TO DEFENDANTS BROWN & WILLIAMSON
TOBACCO CORPORATION, THE AMERICAN TOBACCO COMPANY AND
BRITISH AMERICAN TOBACCO (INVESTMENTS) LIMITED**

Defendant British American Tobacco (Investments) Limited, formerly known as the British-American Tobacco Company Limited ("BATCo"), by its attorneys, Chadbourne & Parke LLP, as and for its objections and responses to Plaintiff United States' ("Plaintiff") Specific Interrogatories ("Interrogatories") to defendants Brown & Williamson Tobacco Corporation ("Brown & Williamson"), The American Tobacco Company and BATCo, made pursuant to the Federal Rules of Civil Procedure ("Fed. R. Civ. P."), and Order Number 51, the Ninth Case Management Order, states as follows:

Identify all facts, including any research, on which you base your disagreement or disbelief that "the scientific evidence, taken as a whole, is sufficient to establish that environmental tobacco smoke (ETS) is a cause of disease."

RESPONSE

Pursuant to Instruction No. 2, BATCo is not obliged to answer this Interrogatory.

INTERROGATORY NO. 8 (for BATCo)

On its Internet Web Site, Brown & Williamson states:

Brown & Williamson recognizes that smoking can be annoying and irritating to nonsmokers, and is committed to the development of practical ventilation-based solutions that will reduce this annoyance. However, we do not believe that the scientific evidence, taken as a whole, is sufficient to establish that environmental tobacco smoke (ETS) is a cause of disease.

Please state whether BATCo agrees or disagrees with this statements and, if it agrees, identify all communications and all facts, including any research, on which you base your disagreement or disbelief that "the scientific evidence, taken as a whole, is sufficient to establish that environmental tobacco smoke (ETS) is a cause of disease."

RESPONSE

BATCo asserts General Objections 4, 5, 7, 9, 11 and 18 in response to this Interrogatory. BATCo further objects to this Interrogatory on the ground that the term "statement" as it is used in this Interrogatory is vague, ambiguous and unintelligible insofar as it refers to a paragraph of single-spaced text containing more than one concept. BATCo further objects to this Interrogatory on the ground that it is overly broad and

unduly burdensome to the extent that it asks BATCo to "identify all communications and all facts" regarding the subject stated therein.

BATCo further objects to this Interrogatory on the ground that it is compound in violation of Report and Recommendation No. 40 and, in combination with the other interrogatories propounded by plaintiff in this set, violates the requirements of ¶ III.E.1 of Order No. 51, the Ninth Case Management Order. Plaintiff asks BATCo to verify a series of statements in a single-spaced paragraph and asks at a minimum one additional question beyond that, all while purporting to propound a single interrogatory. Subject to and without waiving the foregoing General and Specific Objections, BATCo responds as follows:

To the extent that the quoted text is read to state that, while smoking can cause discomfort to nonsmokers, the scientific evidence taken as a whole does not establish that ETS is a cause of disease, BATCo agrees. To the extent that there is information on this subject in BATCO's files, BATCo refers plaintiff to the research index that BATCo produced to plaintiff on May 26, 2000, and, for more recent information, if any, to the research and development files made available in August and September 2001, and states that it is as great a burden for BATCo to obtain the particular information requested from these sources as plaintiff. BATCo also refers plaintiff to the files of Christopher Proctor that were made available from the Guildford Depository in November and December

2000 or, for more recent information, if any, the files of Christopher Proctor made available in December 2001.

In addition, BATCo notes that one of the largest studies on ETS and lung cancer, undertaken by the World Health Organization (WHO), found no meaningful increase in lung cancer risk for growing up, living, working, traveling or socializing with a smoker. The WHO claimed that this study was consistent with an increased risk from ETS, a claim that is hard to make on the basis of their research findings. Science, of course, cannot definitively prove that there is no risk associated with ETS. The studies on lung cancer to date, however do not demonstrate that ETS is a cause of lung cancer and to the extent that these studies are used to suggest that there is a risk of lung cancer from ETS exposure, it is too small to measure with any certainty.

The most substantial sources of data on ETS and heart disease are two huge databases of the American Cancer Society's Cancer Prevention Study, and the database of the US National Mortality Followback Survey. Analyses of these have reported no overall association between ETS and heart disease. Epidemiological studies on ETS and respiratory disease in adults, taken overall, do not show an increase in risk.

BATCo also refers plaintiff to Flue - Cured Tobacco Cooperative Stabilization Corp. v. United States Environmental Protection Agency, 4 F. Supp. 2d 438 (M.D.N.C. 1998).